

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Kevin Brazile

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

EDWARD AYALA, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

SIERRA CORPORATE MANAGEMENT,
INC., a California corporation; and DOES 1
through 100,

Defendants.

Case No. **21STCV31024**

**INDIVIDUAL AND REPRESENTATIVE
ACTION COMPLAINT:**

- (1) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, AND 1197);**
- (2) **FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 551, 552, 558,
1194, AND 1198);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512);**
- (4) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516);**
- (5) **FAILURE TO REIMBURSE FOR
NECESSARY BUSINESS
EXPENSES (LABOR CODE § 2802);**
- (6) **FAILURE TO PROVIDE
ACCURATE, ITEMIZED WAGE
STATEMENTS (LABOR CODE
§ 226 *et seq.*);**
- (7) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (8) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); and**
- (9) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 17200 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Edward Ayala ("Plaintiff"), on behalf of himself and all others similarly situated,
2 hereby brings this Individual and Representative Action Complaint ("Complaint") against Sierra
3 Corporate Management, Inc., a California corporation; and, DOES 1 to 100, inclusive
4 (collectively "Defendants"), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 Complaint for recovery of unpaid wages and penalties under California Business & Professions
8 Code § 17200 *et seq.*, Labor Code §§ 201-204, 226 *et seq.*, 226.7, 226.8, 510, 512, 558, 1182.12,
9 1194, 1194.2, 1197, 1198, 2698 *et seq.*, 2800, and 2802; and Industrial Welfare Commission
10 Wage Order 5 ("Wage Order 5"), in addition to seeking declaratory relief and restitution. This
11 Court has jurisdiction over Defendants violations of the California Labor Code because the
12 amount in controversy exceeds this Court's jurisdictional minimum.

13 **VENUE**

14 2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§
15 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the
16 County of Los Angeles. One or more of the Defendants own, maintain offices, transact business,
17 have agent(s) within the County of Los Angeles, and/or otherwise are found within the County of
18 Los Angeles, and Defendants are within the jurisdiction of this Court for purposes of service of
19 process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was and currently is, a California resident. During the four years immediately preceding
23 the filing of the Complaint in this action and within the statute of limitations periods applicable
24 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
25 employee. Plaintiff was, and is, a victim of Defendants' policies and/or practices complained of
26 herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code
27 §§ 201-204, 226 *et seq.*, 226.7, 226.8, 510, 512, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et*
28 *seq.*, 2800, and 2802; California Business & Professions Code § 17200 *et seq.* ("Unfair

1 Competition Law”); and Wage Order 5, which sets employment standards for the public
2 housekeeping industry.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
5 continue to do) business by employing individuals to manage and oversee the operations of their
6 numerous property holdings, and employed Plaintiff, and other similarly-situated non-exempt
7 employees, within Los Angeles County and the state of California and, therefore, were (and are)
8 doing business in Los Angeles County and the State of California.

9 5. Plaintiff does not know the true names or capacities, whether individual, partner,
10 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
11 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
12 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
13 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
14 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
15 and proximately caused Plaintiff and the other Aggrieved Employees (as defined herein) to be
16 subject to the unlawful employment practices, wrongs, injuries and damages complained of
17 herein.

18 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
19 herein, Defendants were and are the employers of Plaintiff and other Aggrieved Employees.

20 7. At all times herein mentioned, each of said Defendants participated in the doing
21 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
22 Defendants, and each of them, were the agents, servants, and employees of each and every one of
23 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
24 were acting within the course and scope of said agency and employment. Defendants, and each
25 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
26 omissions complained of herein.

27 8. At all times mentioned herein, Defendants, and each of them, were members of
28 and engaged in a joint venture, partnership, and common enterprise, and acting within the course

1 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
2 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and the other
3 Aggrieved Employees.

4 **GENERAL FACTUAL ALLEGATIONS**

5 9. Plaintiff commenced employment with Defendants as a non-exempt employee, in
6 the position of "Assistant Property Manager" from around June 25, 2017, until his wrongful
7 termination around September 10, 2020. Plaintiff typically worked from Tuesday to Saturday
8 from 9:00 am until 6:00 p.m., and frequently later. Plaintiff's job duties included handling and
9 processing rent payments, processing work orders, and generally handling Defendants' tenants'
10 concerns. Due to Defendants' policy/practice of intentionally understaffing its facilities, Plaintiff
11 and other aggrieved employees were typically required to be on-duty during the entire duration of
12 their shifts outside of the hour they were allotted for meal periods. The "aggrieved employees"
13 whom Plaintiff seeks to represent are the other current and former non-exempt employees of SCM
14 who were subject to the Labor Code violations as alleged herein as well as all salaried and/or
15 exempt employees who should have been classified as non-exempt but were willfully and
16 unlawfully misclassified as salary-exempt.

17 **Off-The-Clock/Overtime**

18 10. At various times during the relevant time period, Defendants required Plaintiff and
19 other aggrieved employees to work off-the-clock. For example, Plaintiff and the aggrieved
20 employees would work off-the-clock for numerous hours on a monthly basis in order to meet the
21 intense demands imposed on them by Defendants. Additionally, Plaintiff and other aggrieved
22 employees would have to constantly attend to the needs of Defendants' tenants outside of normal
23 business hours without any compensation from Defendants. SCM was aware, or reasonably should
24 have been aware, that this off-the-clock work was being performed but failed to compensate
25 Plaintiff and other aggrieved employees for such off-the-clock work, most of which constituted
26 overtime hours worked.

27 11. Plaintiff and other aggrieved employees routinely worked in excess of 8 hours per
28 workday and/or 40 hours per workweek, but did not receive overtime compensation equal to one

1 and one-half times their regular rate of pay for working overtime hours. For example, Defendants
2 paid Plaintiff and other aggrieved employees commission earnings, non-discretionary bonuses,
3 and other forms of non-discretionary pay that are not excludable from the regular rate of pay
4 (hereinafter the aforementioned forms of pay are referred to as "Incentive Pay"). Despite
5 Defendants' payment of Incentive Pay to Plaintiff and other aggrieved employees, Defendants
6 failed to properly calculate the regular rate of pay, thereby causing Plaintiff and other aggrieved
7 employees to be underpaid all required overtime wages. Furthermore, Defendants employed a
8 systemic "no overtime" policy/practice which actively discouraged Plaintiff and the other
9 aggrieved employees from recording their overtime hours worked despite frequently working in
10 excess of eight hours in a day and/or forty hours in a week. While Defendants occasionally
11 provided Plaintiff and other aggrieved employees with overtime compensation, the vast majority
12 of the time that they worked overtime hours they would either be told to come in to work late the
13 next day (so as to avoid reaching forty hours worked in a week) or not provided any overtime
14 compensation whatsoever.

15 **Meal Period Violations**

16 12. During Plaintiff's employment with Defendants, Plaintiff was not provided all
17 required meal periods due to Defendant's meal periods policies which fail to provide
18 uninterrupted, duty-free 30-minute meal periods prior to the sixth hour of work commencing.
19 Rather, Plaintiff and other aggrieved employees did not exercise the use of their meal periods
20 until well after their 5th hour worked the vast majority of the shifts that they worked. Furthermore,
21 Plaintiff estimates that he and other aggrieved employees would be forced to work through their
22 meal periods entirely at least once per week in order to meet the intense workload demands
23 imposed on them by Defendants and attend to tenant needs. Furthermore, while Defendants'
24 timesheets may indicate that Plaintiff and other aggrieved employees would take timely hour-
25 long meal periods, their only break from work during their shifts, in practice Defendants did not
26 keep track of when Plaintiff and the other aggrieved employees exercised the use of their meal
27 periods whatsoever. Despite Defendants failure to authorize and permit Plaintiff and other
28 aggrieved employees to take compliant meal periods, due to their uniform and unlawful practices,

1 Defendants never provided Plaintiff and other aggrieved employees with an hour of pay at their
2 regular rate for each rest period violation as required by Labor Code § 226.7.

3 13. In addition to Defendants' failure to provide Plaintiff and other aggrieved
4 employees with all legally required first meal periods, Defendants also failed to provide a second
5 meal period to Plaintiff and other aggrieved employees when they worked shifts in excess of 10.0
6 hours. At no point during Plaintiff's employment with Defendants was he provided a second
7 meal period despite the fact, as detailed above, that he worked in excess of 10.0 hours on a
8 frequent basis. Again, Despite Defendants' failure to authorize and permit Plaintiff and other
9 aggrieved employees to take all lawful paid second meal periods, due to their uniform and
10 unlawful practices, Defendants never provided Plaintiff and other aggrieved employees with an
11 hour of pay at their regular rate for each rest period violation as required by Labor Code § 226.7.

12 14. Further, upon Information and belief, Defendants maintained no payroll code or
13 other mechanism for the payment of meal period premium payments required by Labor Code §
14 226.7 in the event that a legally compliant meal period was not provided to any of their non-
15 exempt employees.

16 **Missed Rest Periods**

17 15. Plaintiff and other aggrieved employees were also not authorized and permitted to
18 take all required rest periods due to Defendants rest period policies/practices, which fail to
19 authorize and permit all rest periods for every four hours worked, or major fraction thereof. At
20 no point during their employment with Defendants were Plaintiff and other aggrieved employees
21 permitted to exercise legally compliant rest periods. As stated above, Plaintiff was constantly
22 required to attend to his work duties, without interruption of breaks outside of the hour-long meal
23 period that was allotted to him, and therefore, Defendants failed to authorize and permit Plaintiff
24 to take off-duty rest periods that were completely free of employer control in violation of
25 California law. Furthermore, management never mentioned to Plaintiff and other aggrieved
26 employees that they were permitted by law to exercise their right to take duty-free rest periods.
27 Instead, Defendants attempted to unlawfully purport that the "hour-long" meal period provided
28 to Plaintiff and other aggrieved employees was inclusive of statutorily required rest periods.

1 Despite Defendants failure to authorize and permit Plaintiff and other aggrieved employees to
2 take all lawful paid rest periods, due to their uniform and unlawful practices, Defendants never
3 provided Plaintiff and other aggrieved employees with an hour of pay at their regular rate for each
4 rest period violation as required by Labor Code § 226.7. Upon information and belief, during at
5 least a portion of the relevant period, Defendants maintained no payroll code or another
6 mechanism for the payment of rest period premiums in the event Plaintiff and other aggrieved
7 employees were not authorized to take lawful rest periods.

8 **Inaccurate Wage Statements**

9 16. As result of Defendants' failure to properly keep track of all hours worked and pay
10 all minimum wages, overtime wages, meal and rest period premium wages, Defendants
11 maintained inaccurate payroll records, and issued inaccurate and facially deficient wage
12 statements. Furthermore, Defendants issued facially inaccurate wage statements by failing to
13 include the proper legal name of the employer entity. For example, on Plaintiff's wage statement
14 numbered "V36755618", Defendants list the name of the employer entity as "Sierra Corporate
15 Management" rather than its proper legal name, "Sierra Corporate Management, Inc.".

16 **Failure to Reimburse for All Necessary Business Expenses**

17 17. Defendants failed to adequately reimburse Plaintiff and the other aggrieved
18 employees for all reasonable and necessary work expenditures, including but not limited to,
19 requiring them to purchase and use their own personal cellular devices to conduct all work-related
20 business at their own expense. At no point during Plaintiff's employment was he ever reimbursed
21 by Defendants for any of these necessary business expenditures.

22 **Misclassification**

23 18. Furthermore, Defendants willfully and intentionally misclassified its employees,
24 including, but not limited to, those employees in the position of "Resident Property Manager"
25 and/or similar positions. For example, while Plaintiff's supervisors during his employment (Ms.
26 Rihanna Sierra and Ms. Serena Bromley) were classified by Defendants as salaried and exempt
27 employees, they did not fall within any recognized salary exemption and were compensated at less
28 than the statutory minimum salary. Upon information and belief, this intentional and willful

1 misclassification resulted in the systemic underpayment of wages to those individuals employed
2 as Resident Property Managers at SCM's numerous properties in California.

3 19. Pursuant to *Huff v. Securitas Security Services*, (2018) 23 Cal.App.5th 745, 751, an
4 employee who brings a representative action and was affected by at least one of the violations
5 alleged in the complaint has standing to pursue penalties on behalf of the State not only for that
6 violation, but for violations affecting other employees as well. Accordingly, Plaintiff has standing
7 to pursue penalties on behalf of the State for violations affecting all of the aggrieved employees
8 who performed work for Defendants, regardless of their classification, job title, locations, or
9 whether they were hired directly or through a labor contractor/staffing agency.

10 **Waiting Time Penalties**

11 20. As a further result of Defendant's failure to pay Plaintiff and other aggrieved
12 employees all minimum, overtime wages, and meal/rest period premium wages, Defendants have
13 failed to timely pay all wages owed to separating employees at the time of their separation.

14 **FIRST CAUSE OF ACTION**

15 **MINIMUM WAGE VIOLATIONS**

16 **(AGAINST ALL DEFENDANTS)**

17 21. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

18 22. Wage Order 5, § 4 and California Labor Code §§ 1197 and 1182.12 establish the
19 right of employees to be paid minimum wages for all hours worked in amounts set by state law.
20 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
21 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
22 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
23 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform
24 their pay practices to the requirements of the law by failing to pay Plaintiff and other Aggrieved
25 Employees for all hours actually worked including, but not limited to, all hours they were subject
26 to the control of Defendants and/or suffered or permitted to work under the California Labor Code
27 and Wage Order 5.

28 23. California Labor Code § 1198 makes unlawful the employment of an employee

1 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide
2 that an employer who has failed to pay its employees the legal minimum wage is liable to pay
3 those employees the balance of the unpaid wages as well as liquidated damages in an amount
4 equal to the wages due and interest thereon.

5 24. As a direct and proximate result of Defendant's unlawful conduct as alleged
6 herein, Plaintiff and other Aggrieved Employees have sustained economic damages, including
7 but not limited to, unpaid wages and lost interest in an amount to be established at trial, and they
8 are entitled to recover economic and statutory damages and penalties and other appropriate relief
9 as a result of Defendant's violations of the California Labor Code and Wage Order 5.

10 25. Defendant's practice and uniform administration of corporate policy regarding
11 illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and
12 other Aggrieved Employees in a civil action for the unpaid amount of minimum wages, liquidated
13 damages, including interest thereon, statutory penalties, and attorneys' fees and costs of suit
14 according to California Labor Code §§ 204, 558, 1194, *et seq.*, 1197, 1198 and Code of Civil
15 Procedure § 1021.5.

16 **SECOND CAUSE OF ACTION**

17 **FAILURE TO PAY ALL OVERTIME WAGE**

18 **(AGAINST ALL DEFENDANTS)**

19 26. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

20 27. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
21 and 1198, which provide that non-exempt employees are entitled to overtime wages for all
22 overtime hours worked, and provide a private right of action for the failure to pay all overtime
23 compensation for overtime work performed.

24 28. At all times relevant herein, Defendants were required to properly compensate
25 Plaintiff and other Aggrieved Employees for all overtime hours worked pursuant to California
26 Labor Code § 1194 and Wage Order 5. Wage Order 5, § 3 requires an employer to pay overtime
27 wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth
28 in the Wage Order.

1 29. At all times relevant herein, Defendants caused Plaintiff and other non-exempt
2 employees to work overtime hours but did not compensate Plaintiff other Aggrieved Employees
3 at one and one-half times their regular rate of pay for such hours.

4 30. The foregoing policies and practices are unlawful and create entitlement to
5 recovery by Plaintiff and the other Aggrieved Employees in a civil action for the unpaid amount
6 of overtime premiums owing, including interest thereon, statutory and civil penalties, and
7 attorneys' fees and costs of suit according to California Labor Code §§ 204, 510, 558, 1194, and
8 1198, Wage Order 5, and Code of Civil Procedure § 1021.5.

9 **THIRD CAUSE OF ACTION**

10 **MEAL PERIOD VIOLATIONS**

11 **(AGAINST ALL DEFENDANTS)**

12 31. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

13 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
14 failed in their affirmative obligation to provide all of their non-exempt employees in California,
15 including Plaintiff and other Aggrieved Employees with all legally compliant meal periods in
16 accordance with the mandates of the California Labor Code and Wage Order 5, § 10. Despite
17 Defendant's violations, Defendants did not pay an additional hour of pay to Plaintiff other
18 Aggrieved Employees at their respective regular rates of compensation, in accordance with
19 California Labor Code §§ 226.7, and 512.

20 33. As a result, Defendants are responsible for paying premium compensation for meal
21 period violations including interest thereon, as well as statutory penalties, civil penalties, and
22 costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 5, and Civil Code §§
23 3287(b) and 3289.

24 **FOURTH CAUSE OF ACTION**

25 **REST PERIOD VIOLATIONS**

26 **(AGAINST ALL DEFENDANTS)**

27 34. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

28 35. Wage Order 5, § 11 and California Labor Code §§ 226.7 and 516 establish the

1 right of employees to be authorized and permitted to take a paid rest period of at least ten (10)
2 minutes net rest time for each four (4) hour period worked, or major fraction thereof.

3 36. As alleged herein, Defendants failed to authorize and permit Plaintiff other
4 Aggrieved Employees to take all legally compliant rest periods.

5 37. The foregoing violations create an entitlement to recovery by Plaintiff and other
6 Aggrieved Employees in a civil action for the unpaid amount of rest period premiums owing,
7 including interest thereon, as well as statutory penalties, civil penalties, and costs of suit according
8 to California Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289.

9 **FIFTH CAUSE OF ACTION**

10 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

11 **(AGAINST ALL DEFENDANTS)**

12 38. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

13 39. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
14 states that “an employer shall indemnify his or her employees for all necessary expenditures or
15 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
16 his or her obedience to the directions of the employer...”

17 40. Due to Defendant’s unlawful policy and practice of requiring employees to
18 purchase and a pay for the expenses associated with the use of their personal cellular phones in
19 the performance of their job duties, Defendants have violated Labor Code § 2802.

20 41. Plaintiff and other Aggrieved Employees are entitled to attorneys’ fees and costs
21 of suit pursuant to Labor Code § 2802(c) for bringing this action.

22 42. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of
23 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
24 Plaintiff and other Aggrieved Employees are entitled to interest, which shall accrue from the date
25 on which they incurred the initial necessary expenditure.

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1 **SIXTH CAUSE OF ACTION**

2 **WAGE STATEMENT VIOLATIONS**

3 **(AGAINST ALL DEFENDANTS)**

4 43. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 44. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Plaintiff
7 and other Aggrieved Employees with accurate, itemized wage statements that included, among
8 other requirements, accurate total gross wages earned, meal and rest period premiums, and total
9 net wages earned in violation of Labor Code §226 *et seq.*

10 45. Defendant's failure to furnish Plaintiff and other Aggrieved Employees with
11 complete and accurate, itemized wage statements resulted in actual injury, as said failures led to,
12 among other things, the non-payment of all of their minimum and overtime wages, meal and rest
13 period premiums, and deprived them of the information necessary to identify discrepancies in
14 Defendant's reported data.

15 46. Defendant's failures created an entitlement to Plaintiff other Aggrieved
16 Employees in a civil action for damages and/or penalties pursuant to Labor Code § 226, including
17 statutory penalties civil penalties, reasonable attorneys' fees, and costs according to suit pursuant
18 to Labor Code § 226 *et seq.*

19 **SEVENTH CAUSE OF ACTION**

20 **WAITING TIME PENALTIES**

21 **(AGAINST ALL DEFENDANTS)**

22 47. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

23 48. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
24 an employer to pay all wages immediately at the time of termination of employment in the event
25 the employer discharges the employee or the employee provides at least 72 hours of notice of
26 his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her
27 intent to quit, said employee's wages become due and payable not later than 72 hours upon said
28 employee's last date of employment.

1 49. Defendants failed to timely pay Plaintiff and other Aggrieved Employees all final
2 wages due to them at the time of their separation including, among other things, underpaid
3 overtime and minimum wages owed, and meal and rest period premium wages. Further, Plaintiff
4 is informed and believes, and based thereon alleges, that as a matter of uniform policy and
5 practice, Defendants continue to fail to pay other Aggrieved Employees all earned wages at the
6 end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203.
7 Defendant's failure to pay all final wages was willful within the meaning of Labor Code § 203.

8 50. Defendant's willful failure to timely pay Plaintiff and other Aggrieved Employees
9 their earned wages upon separation from employment results in a continued payment of wages
10 up to thirty (30) days from the time the wages were due. Therefore, Plaintiff other Aggrieved
11 Employees are entitled to compensation pursuant to Labor Code § 203, plus reasonable
12 attorneys' fees and costs of suit.

13 **EIGHTH CAUSE OF ACTION**

14 **UNFAIR COMPETITION**

15 **(AGAINST ALL DEFENDANTS)**

16 51. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

17 52. Defendants have engaged and continue to engage in unfair and/or unlawful
18 business practices in California in violation of California Business and Professions Code § 17200
19 *et seq.*, by failing to pay Plaintiff and other Aggrieve Employees all minimum and overtime
20 wages, provide all required meal periods and failing to authorize and permit all required rest
21 periods, failing to pay meal and rest period premium wage payments, intentionally
22 misclassifying non-exempt employees as exempt, failing to reimburse for necessary business
23 expenditures, and failing to furnish accurate, itemized wage statements, and willfully failing to
24 timely pay Plaintiff and other Aggrieved Employees all final wages upon separation of
25 employment.

26 53. Defendant's utilization of these unfair and/or unlawful business practices deprived
27 Plaintiff and continues to deprive other Aggrieved Employees of compensation to which they
28 are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair

1 advantage over Defendant's competitors who have been and/or are currently employing workers
2 and attempting to do so in honest compliance with applicable wage and hour laws.

3 54. Because Plaintiff is a victim of Defendant's unfair and/or unlawful conduct alleged
4 herein, Plaintiff for himself and on behalf of other Aggrieved Employees seeks full restitution of
5 monies, as necessary and according to proof, to restore any and all monies withheld, acquired
6 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

7 55. The acts complained of herein occurred within the last four years immediately
8 preceding the filing of the Complaint in this action.

9 56. Plaintiff was compelled to retain the services of counsel to file this court action to
10 protect his interests and those of other Aggrieved Employees to obtain restitution and injunctive
11 relief on behalf of Defendant's current non-exempt employees, and to enforce important rights
12 affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees
13 and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

14 **NINTH CAUSE OF ACTION**

15 **PRIVATE ATTORNEYS GENERAL ACT**

16 **(AGAINST ALL DEFENDANTS)**

17 57. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

18 58. Defendants have committed several Labor Code violations against Plaintiff, and
19 other aggrieved employees. Plaintiff, an "Aggrieved Employee" within the meaning of Labor
20 Code § 2698 *et seq.*, acting on behalf of himself and other Aggrieved Employees, brings this
21 representative action against Defendants to recover the civil penalties due to Plaintiff, other
22 aggrieved employees, and the State of California according to proof pursuant to Labor Code §
23 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
24 each failure to pay each employee and \$200 for each subsequent violation or willful or intentional
25 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
26 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
27 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
28 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per

1 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each
2 subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5)
3 \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay
4 period for those violations of the Labor Code for which no civil penalty is specifically provided,
5 based on the following Labor Code:

- 6 a. Failing to pay minimum wages for all hours worked to Plaintiff, and other
7 Aggrieved Employees in violation of Labor Code §§ 558, 1182.12, 1194,
8 1194.2, 1197, 1197.1, and 1198;
- 9 b. Failing to pay Plaintiff and other Aggrieved Employees all earned overtime
10 compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 11 c. Failing to provide all legally required meal periods, and failure to pay meal
12 period premium wages, to Plaintiff and other Aggrieved Employees at the
13 regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and
14 1198;
- 15 d. Failing to authorize and permit all legally required rest periods, and failure to
16 pay rest period premium wages, to Plaintiff and other Aggrieved Employees at
17 the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558,
18 and 1198;
- 19 e. Failing to reimburse Plaintiff and other Aggrieved Employees for all necessary
20 work expenses incurred in violation of Labor Code §§ 2802 and 2804;
- 21 f. Failing to furnish Plaintiff and other Aggrieved Employees with complete,
22 accurate, itemized wage statements in violation of Labor Code § 226;
- 23 g. Failing to timely pay all final wages and compensation earned by Plaintiff and
24 other Aggrieved Employees at the time of separation in violation of Labor Code
25 §§ 201, 202, and 203;
- 26 h. Failing to pay all wages earned to Plaintiff and other aggrieved employees at
27 least twice during each calendar month in violation of Labor Code § 204;
- 28 i. Intentionally and willfully misclassifying its salaried and/or exempt aggrieved
employees in violation of Labor Code § 226.8; and

1 j. Failing to maintain accurate records on behalf of Plaintiff and other Aggrieved
2 Employees in violation of Labor Code § 1174.

3 59. On June 16, 2021, Plaintiff notified Defendants via certified mail, and notified the
4 California Labor and Workforce Development Agency ("LWDA") via its website, of
5 Defendant's violations of the California Labor Code and Plaintiff's intent to bring a claim for
6 civil penalties under California Labor Code § 2698 et seq. with respect to violations of the
7 California Labor Code identified in Paragraph 58 (a)-(h). Now that sixty-five days have passed
8 from Plaintiff's notifying Defendants and the LWDA of these violations, and the LWDA has not
9 provided notice that it intends to investigate the violations, Plaintiff has exhausted his
10 administrative requirements for bringing a claim under the Private Attorneys General Act with
11 respect to these violations.

12 60. Plaintiff was compelled to retain the services of counsel to file this court action to
13 protect his interests and the interests of other similarly aggrieved employees, and to assess and
14 collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and
15 costs, which he is entitled to receive under California Labor Code § 2699(g).

16 PRAYER

17 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
18 this suit is brought against Defendants, as follows:

19 1. Upon the First Cause of Action, for payment of minimum wages, liquidated
20 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and
21 1197;

22 2. Upon the Second Cause of Action, for compensatory, consequential, general, and
23 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;

24 3. Upon the Third Cause of Action, for compensatory, consequential, general and
25 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;

26 4. Upon the Fourth Cause of Action, for compensatory, consequential, general and
27 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

28 5. Upon the Fifth Cause of Action, for compensatory, consequential, general, and
special damages according to proof pursuant to Labor Code § 2802;

1 6. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
2 226, *et seq.*;

3 7. Upon the Seventh Cause of Action, for statutory waiting time penalties pursuant
4 to Labor Code § 201-203;

5 8. Upon the Eighth Cause of Action, for restitution to Plaintiff and Other Aggrieved
6 Employees of all money and/or property unlawfully acquired by Defendants by means of any acts
7 or practices declared by this Court to be in violation of Business and Professions Code § 17200
8 *et seq.*;

9 9. Upon the Ninth Cause of Action, (1) \$100.00 for each initial violation for each
10 failure to pay each employee and \$200 for each subsequent violation or willful or intentional
11 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
12 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
13 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
14 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
15 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
16 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
17 each initial violation and \$200 for each subsequent violation per employee per pay period for the
18 violations of the Labor Code Sections cited in Labor Code § 2699.5.

19 10. Prejudgment interest on all due and unpaid wages pursuant to California Labor
20 Code § 218.6 and Civil Code §§ 3287 and 3289;

21 11. On all causes of action, for attorneys' fees and costs as provided by Code of Civil
22 Procedure § 1021.5 and all other applicable statutes; and

23 12. For such other and further relief the Court may deem just and proper.

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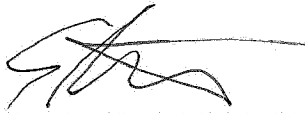
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1
2 Dated: August 23, 2021

Respectfully submitted,
STANBURY BROWN LAW

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4 By:



Daniel J. Brown
Ethan C. Surls
Attorneys for Plaintiff

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9 **DEMAND FOR JURY TRIAL**

10 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

11
12 Dated: August 23, 2021

Respectfully submitted,
STANBURY BROWN LAW

13
14 By:



Daniel J. Brown
Ethan C. Surls
Attorneys for Plaintiff